

राजस्तं न० एस० एम० १४.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 27 नवम्बर, 1976/6 अग्रहायण, 1898

GOVERNMENT OF HIMACHAL PRADESH

WELFARE DEPARTMENT

NOTIFICATION

Simla-171002, the 15th November, 1976

No. WLF-A(3)-20/76.—The Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976, Act of Parliament (No. 106 of 1976) which received assent of the President on the 13th September, 1976, as already published in the Gazette of India Extra-ordinary, Part II, Section I by the Government of India, Ministry of Law, Justice and Company Affairs (Legislative Department), dated the 14th September, 1976, is hereby republished for information of general public.

C. M. CHATURVEDI,
Secretary.

GOVERNMENT OF INDIA
MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(LEGISLATIVE DEPARTMENT)

New Delhi, the 14th September, 1976/Bhadra 23, 1898 (Saka)

The following Act of Parliament received the assent of the President on the 13th September, 1976, and is hereby published for general information:—

13th September, 1976

THE UNTOUCHABILITY (OFFENCES) AMENDMENT AND MISCELLANEOUS PROVISION ACT, 1976
(No. 106 OF 1976)

AN

ACT

to amend the Untouchability (Offences) Act, 1953 and further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Untouchability (Offences) Amendment and Miscellaneous Provision Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENT OF THE UNTOUCHABILITY (OFFENCES) ACT, 1955

Amendment of the long title.

2. In the Untouchability (Offences) Act, 1955 (hereinafter referred to as the principal Act), in the long title, for the words ‘practice of “Untouchability”’ the words ‘preaching and practice of “Untouchability”’ shall be substituted.

Amendment to section 1.

3. In section 1 of the principal Act, in sub-section (1), for the words and brackets “the Untouchability (Offences) Act”, the words “the Protection of Civil Rights Act”, shall be substituted.

Amendment to section 2.

4. In section 2 of the principal Act,—
(i) clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—
(a) “civil rights” means any right accruing to a person by reason of the abolition of “untouchability” by article 17 of the Constitution;;

- (ii) for clause (b), the following clause shall be substituted, namely:—
 - (b) “place” includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel;’;
- (iii) in clause (d), for the words “and includes all lands and subsidiary shrines appurtenant or attached to any such place;”, the following shall be substituted, namely:—
“and includes—
 - (i) all lands and subsidiary shrines appurtenant or attached to any such place,
 - (ii) a privately owned place of worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and
 - (iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;”;
- (iv) after clause (d), the following clauses shall be inserted, namely:—
 - (da) “prescribed” means prescribed by rules made under this Act;
 - (db) “Scheduled Castes” has the meaning assigned to it in clause (24) of article 366 of the Constitution;”;
- (v) in clause (e), for the words “and includes a laundry, a hair cutting saloon and any other place where services are rendered to customers”, the following shall be substituted namely:—
“and includes—
 - (i) any place from where goods are sold by a hawker or vendor or from a mobile van or cart,
 - (ii) a laundry and a hair cutting saloon,
 - (iii) any other place where services are rendered to customers”.

5. In section 3 of the principal Act,—

- (i) in clause (a), the words “or belonging to the same religious denomination” shall be omitted;
- (ii) in clause (b),—
 - (a) after the word “water-course,”, the words “river or lake or bathing at any ghat of such tank, water-course, river or lake” shall be inserted;
 - (b) the words “or belonging to the same religious denomination” shall be omitted;
- (iii) for the words “shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both”, the words “shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees” shall be substituted.

Amend-
ment of
section 3.

6. In section 4 of the principal Act,—

- (i) for the words “persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person”, wherever they occur, the words “any section thereof” shall be substituted;
- (ii) in clause (iii), after the words “trade or business”, the words “or employment in any job” shall be inserted;

Amend-
ment of
section 4.

- (iii) in clause (x), for the words "taking part in any religious procession" the words "taking part in, or taking out, any religious, social or cultural procession" shall be substituted;
- (iv) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted;
- (v) the following Explanation shall be inserted at the end, namely:—
'Explanation.—For the purposes of this section, "enforcement of any disability" includes any discrimination on the ground of "untouchability".'

Amendment of section 5.

7. In section 5 of the principal Act,—

- (i) in clause (a), the words "attached thereto" shall be omitted;
- (ii) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred and not more than five hundred rupees" shall be substituted.

Amendment of section 6.

8. In section 6 of the principal Act, for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

Amendment of section 7.

9. In section 7 of the principal Act,—

- (i) in sub-section (1),—
 - (a) in clause (c), the word "or" shall be inserted at the end;
 - (b) after clause (c), as so amended, the following clause shall be inserted, namely:—
'(d) insults or attempts to insult, on the ground of "untouchability", a member of a Scheduled Caste;'
 - (c) for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted;
 - (d) the Explanation shall be re-numbered as Explanation I, and after Explanation I as so re-numbered the following Explanation shall be inserted, namely:—

'Explanation II.—For the purposes of clause (c), a person shall be deemed to incite or encourage the practice of "untouchability"—

- (i) if he, directly or indirectly, preaches "untouchability" or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "untouchability" in any form.;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

'(1A) Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution, shall, where the offence is punishable with imprisonment for a term exceeding two years, be punishable with imprisonment for a term which shall not be less than two years and also with fine.';

(iii) in sub-section (2), in clause (ii), for the words "shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both", the words "shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees" shall be substituted.

10. After section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section 7A.

'**7A.** (1) Whoever compels any person, on the ground of "untouchability", to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature, shall be deemed to have enforced a disability arising out of "untouchability".

Unlawful
compulsory
labour when
to be
deemed to
be a practice
of untouch-
ability.

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation.—For the purposes of this section, "compulsion" includes a threat of social or economic boycott.

11. In section 9 of the principal Act, after the words "place of public worship", the words "or any educational institution or hostel", shall be inserted.

Amend-
ment of
section 9.

12. In section 10 of the principal Act, the following Explanation shall be inserted at the end, namely:—

Amend-
ment to
section 10.

"Explanation.—A public servant who wilfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act."

13. After section 10 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section 10A.

Power to
State
Government
to impose
collective
fine.

"10A. (1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realised until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3)(a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of apportionment may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realisable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1), or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973, for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate." 2

14. In section 11 of the principal Act, for the words "shall, on every such subsequent conviction, be punishable with both imprisonment and fine", the words, brackets and letters "shall, on conviction, be punishable—

(a) for the second offence, with imprisonment for a term of not less than six months and more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;

Amend-
ment of
section 11.

(b) for the third offence or any offence subsequent to the third offence, with imprisonment for a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees" shall be substituted.

15. In section 12 of the principal Act, the words, brackets, and figures "as defined in clause (24) of article 366 of the Constitution" shall be omitted.

Amend-
ment of
section 12.

16. After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section 14A.

"14A. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act.

Protection
of action
taken in
good faith.

(2) No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.".

17. For section 15 of the principal Act the following sections shall be substituted, namely:—

Substitu-
tion of
section 15.

2 of 1974
2 of 1974

"15. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said Code.

Offences
to be
cognizable
and triable
summarily.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act, while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence of abetment except with the previous sanction—

Duty of
State
Government
to ensure
that the
rights
accruing
from the
abolition of
"untouchabi-
lity" may be
availed of
by the
concerned
persons.

(a) of the Central Government, in the case of a person employed in connection with the affairs of the Union; and
(b) of the State Government in the case of a person employed in connection with the affairs of a State.

15A. (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of "untouchability" are made available to, and are availed of by, the persons subjected to any disability arising out of "untouchability".

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include—

(i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;

(ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

- (iii) the setting up of special courts for the trial of offences under this Act;
 - (iv) the setting up of Committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;
 - (v) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;
 - (vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.
- (3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).
- (4) The Central Government shall every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.”.

Insertion
of new
sections
16A and
16B.

Probation of
Offenders
Act, 1958,
not to
apply to
persons
above the
age of
fourteen
years.

Power to
make rules.

18. After section 16 of the principal Act, the following sections shall be inserted, namely:—

“16A. The provisions of the Probation of Offenders Act, 1958, shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

20 of 1958

16B. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

CHAPTER III

MISCELLANEOUS

Construction
of references.

19. References in any Act, rule, notification or order to the Untouchability (Offences) Act, 1955, shall on the commencement of this Act, be construed as references to the protection of Civil Rights Act, 1955.

22 of 1955

20. The alteration of the short title of the Untouchability (Offences) Act, 1955, shall not— Savings

- (a) affect the previous operation of the Untouchability (Offences) Act, 1955, or anything duly done or suffered thereunder previous to such alteration; or
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Untouchability (Offences) Act, 1955, previous to the alteration of its short title; or
- (c) affect any penalty or punishment incurred in respect of any offence committed against the Untouchability (Offences) Act, 1955, before the commencement of this Act; or
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty or punishment may be imposed as if this Act had not been passed.

CHAPTER IV

AMENDMENT OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

21. In section 8 of the Representation of the People Act, 1951, in subsection (1), after the words "the Indian Penal Code," the words and figures "or under the Protection of Civil Rights Act, 1955" shall be inserted.

Amend-
ment of
Act 43 of
1951.

उप-नियंत्रक, मुद्रण तथा लेखन-सामग्री, हिमाचल प्रदेश, शिमला-३ द्वारा मुफ्त तथा प्रकाशित ।